

Remarks

In the final Office Action dated December 19, 2008, the following rejections are present: claims 1-6 and 11-16 stand rejected under U.S.C. § 102(b) over the Boyce reference (U.S. Patent No. 5,717,816); claims 7 and 17 stand rejected under U.S.C. § 103(a) over the '816 reference in view of Logan (U.S. Patent Pub. 2004/0255330); claims 8 and 18 stand rejected under U.S.C. § 103(a) over the '816 reference in view of the '330 reference in further view of Kang (U.S. Patent No. 5,850,258); and claims 9-10 and 19-20 stand rejected under 35 U.S.C. § 103(a) over the '816 reference in view of Lin (U.S. Patent Pub. 2003/0093801). Applicant traverses all of the rejections and, unless explicitly stated by the Applicant, does not acquiesce to any objection, rejection or averment made in the Office Action.

While Applicant disagrees with the positions taken in the Final Office Action of December 19, 2008, Applicant has made amendments that render these positions moot. Applicant's claimed invention includes embodiments used during playback. Thus, the digital content data is acquired from a source and output in sequential manner to allow a user to view the digital content. Appropriately, the claim limitations are directed toward caching of the digital content data in a manner that facilitates such active-playback. The '816 reference, however, teaches a tape recorder that generates and records individual trick play segments. Consistent with these different goals, the differences between Applicant's claims and the teachings of the '816 reference should be apparent.

Applicant respectfully submits that the claim limitations cannot be interpreted in a manner that reads on the teachings of '816 reference because, for example, the '816 reference does not cache blocks of temporally different I-frames and flush some of those I-frames as a function of a current playback location. Moreover, as the '816 reference is not designed with such playback caching in mind, there is no reason for the '816 reference to provide correspondence thereto. Applicant submits that attempts to read the video recording aspects of the '816 reference as corresponding to playback caching functionality would run afoul of the requirements that claim interpretations be both reasonable and consistent with Applicant's specification (*see, e.g.*, M.P.E.P. § 2111).

As none of the proposed combinations (*i.e.*, the '330 reference, the '801 reference or the '258 reference) cure the underlying deficiencies of the '816 reference, the

rejections under U.S.C. § 103(a) are also improper. For instance, the above discussion also sheds light on the impropriety of the proposed combination with aspects of the '330 reference. In pertinent part, the relied upon portions of the '816 reference are not part of a playback function and therefore combining playback aspects from the '330 reference is illogical. Moreover, Applicant submits that hypothetical modifications of the '816 reference alleged to provide such playback caching functionality would likely be impermissible due to changes in the principle operation of the device (*see, e.g.*, M.P.E.P. § 2143.01). Accordingly, Applicant respectfully requests that all rejections based upon the '816 reference be withdrawn.

In view of the remarks above, Applicant believes that each of the rejections/objections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Aaron Waxler, of NXP Corporation at (408) 474-9063.

Please direct all correspondence to:

Corporate Patent Counsel
NXP Intellectual Property & Standards
1109 McKay Drive; Mail Stop SJ41
San Jose, CA 95131
CUSTOMER NO. 65913

By: 

Name: Robert J. Crawford

Reg. No.: 32,122

Shane O. Sondreal

Reg. No.: 60,145

(NXPS.506PA)